

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION**

IN RE:)	
)	
CITY CHURCH,)	BANKR. NO. 21-30161
)	
DEBTOR.)	Chapter 11, Subchapter V
_____)	

**UNITED STATES' OBJECTION TO DEBTOR'S MOTION FOR PRIVATE SALE OF
REAL PROPERTY OUTSIDE THE ORDINARY COURSE OF BUSINESS FREE AND
CLEAR OF LIENS AND OTHER INTERESTS PURSUANT TO 11 U.S.C. §363 (Doc. 79)**

The United States of America, on behalf of its agencies, the Internal Revenue Service ("IRS") and the Small Business Administration ("SBA"), by and through its undersigned counsel, respectfully objects to Debtor's Motion for Private Sale of Real Property Outside the Ordinary Course of Business Free and Clear of Liens and Other Interests Pursuant to 11 U.S.C. §363 ("Motion for Sale") and, in support of its objection, states the following:

The Motion for Sale includes an exculpatory provision being sought by Debtor in paragraph 7 of the precatory provisions in the Motion for Sale. The exculpation being sought by Debtor in its Motion for Sale reads as follows in the paragraph 7 of the precatory provisions in the Motion for Sale:

7. The Court permanently enjoin all creditors and claimants of the Debtor, and all persons having an interest of any nature derived through the Debtor, from pursuing any action against the buyer(s) of the Property or the Property once acquired by the buyer(s).

The injunction sought by Debtor is not supported by law in the Bankruptcy Code or in any other part of federal law. The United States is a creditor in this case. Injunctions against enforcement or other actions by various parts of the United States Government involving claims against "the Debtor, and all persons having an interest of any nature derived through the Debtor" have not

been supported by Debtor in any court filings in this case to date. Moreover, Debtor has made no effort to define further who would be included within the scope of the phrase “the Debtor, and all persons having an interest of any nature derived through the Debtor.” While the Court has jurisdiction over the Debtor, it is not at all clear that this Court has jurisdiction over “all persons having an interest of any nature derived through the Debtor.” As such, it is entirely unclear on what legal basis Debtor proposes that this Court purport to divest other courts or federal agencies from exercising their lawful powers to “pursu[e] any action against the buyer(s) of the Property or the Property once acquired by the buyer(s)”. The ambiguity concerning the meaning of the word “buyer(s)” alone should prevent the Court from exercising the injunctive relief sought by Debtor. Without the term “buyer(s)” having been defined for this Court, it is unclear to whose benefit the requested relief would redound.

For example, if an agency of the United States, such as the Securities and Exchange Commission hypothetically desires and needs to exercise its lawful power to pursue any action against the buyer(s) of the Property, on what basis would this honorable Bankruptcy Court enjoin the Securities and Exchange Commission from exercising its lawful power to pursue any action against the buyer(s)? It is apparent that the boilerplate phrasing included in Debtor’s Motion for Sale has not been tailored to the circumstance of this case. In addition, it is unclear why Debtor would need any similar boilerplate protection such as that currently being sought in the Motion for Sale.

This radical grab for some sort of protection and immunity for nebulous persons and entities from enforcement actions by the United States is not appropriate. In fact, it is extremely inappropriate and should not be granted in response to the Debtor’s Motion for Sale.

WHEREFORE, the United States objects to Debtor's Motion for Sale and requests that the matter be put on for hearing at a special setting, rather than at the regular Chapter 11 Motions Day.

Respectfully submitted,

DENA J. KING

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s/ JAMES M. SULLIVAN

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